

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

WALTER PHILLIPS, On Behalf of Himself and All
Others Similarly Situated,

Plaintiff,

V.

MOLSON COORS BREWING COMPANY,
BARBARA ALBANESI, DAVID BARNES, CHAT
CHATTERJEE, JAMES FREDERICKS, MICHAEL J.
GANNON, ROBERT KLUGMAN, MICHAEL
KRUTECK, VONDA MILLS, MICHAEL RUMLEY,
BEN SCHWARTZ, KATHERINE L.
MACWILLIAMS, HAROLD R. SMETHHILLS, JEFF
MORGAN, ROB WITWER, TIMOTHY WOLF, W.
LEO KIELY III, PETER H. COORS, CHARLES M.
HERINGTON, FRANKLIN W. HOBBS, RANDALL
OLIPHANT, PAMELA PATSLEY, WAYNE
SANDERS, and ALBERT C. YATES,

Defendants.

C.A. No.: 05-cv-604 ***-LPS

**PLAINTIFF'S RESPONSE TO DEFENDANTS'
NOTICE OF SUPPLEMENTAL AUTHORITY**

The Plaintiff hereby responds to Defendant's Notice of Supplemental Authority, dated September 11, 2007.

In their supplemental submission of authorities in support of their motion to dismiss, defendants told the Court that the Supreme Court's decision in *La Rue v. DeWolff, Boberg & Assoc., Inc.* "could be dispositive of the ERISA Section 502(a) claims pending here." [DI#55 at 3, footnote 1].

Plaintiff wishes to bring two important points to the Court's attention about the appeal in the *La Rue* action. A copy of the *La Rue* docket is attached hereto as Exhibit A.

First, on September 25, 2007, the Supreme Court notably declined to dismiss the *La Rue* petition for *certiorari* on standing or mootness grounds, even though the petitioner-

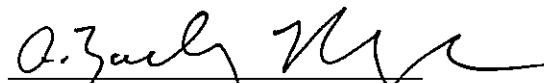
employee had cashed-out all of his investments in the ERISA plan at issue. *See* Exhibit A; DI#55 at Exhibit E.

Second, the Supreme Court heard oral argument on the merits of the appeal on November 26, 2007. *See*; Exhibit A; Exhibit B (*New York Times*, Nov. 27, 2007, at C3) (*Justices Consider a Loss in a 401(k) Plan*). Plaintiff will submit a copy of the transcript of the November 26, 2007 *La Rue* oral argument at the Court's request.

In the interest of judicial economy, the Plaintiff requests that the Court's ruling on Defendants' pending motion to dismiss be stayed until the Supreme Court renders its decision in *La Rue*.

Dated: December 14, 2007

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